



House of Representatives

File No. 852

General Assembly

January Session, 2001

(Reprint of File No. 336)

House Bill No. 5850
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 1, 2001

AN ACT CONCERNING PEREMPTORY CHALLENGES IN A CIVIL ACTION.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 51-241 of the general statutes is repealed and the
2 following is substituted in lieu thereof:

3 On the trial of any civil action to a jury, each party may challenge
4 peremptorily three jurors. Where the court determines a unity of
5 interest exists, several plaintiffs or several defendants may be
6 considered as a single party for the purpose of making challenges, or
7 the court may allow additional peremptory challenges and permit
8 them to be exercised separately or jointly. For the purposes of this
9 section, a "unity of interest" means that the interests of the several
10 plaintiffs or of the several defendants are substantially similar. A unity
11 of interest shall be found to exist among parties who are represented
12 by the same attorney or law firm. In addition, there shall be a
13 presumption that a unity of interest exists among parties where no
14 cross claims or apportionment complaints have been filed against one
15 another. In all civil actions, the total number of peremptory challenges

16 allowed to the plaintiff or plaintiffs shall not exceed twice the number
17 of peremptory challenges allowed to the defendant or defendants, and
18 the total number of peremptory challenges allowed to the defendant or
19 defendants shall not exceed twice the number of peremptory
20 challenges allowed to the plaintiff or plaintiffs.

21 Sec. 2. Subsection (a) of section 51-243 of the general statutes is
22 repealed and the following is substituted in lieu thereof:

23 (a) In any civil action to be tried to the jury in the Superior Court, if
24 it appears to the court that the trial is likely to be protracted, the court
25 may, in its discretion, direct that, after a jury has been selected, two or
26 more additional jurors shall be added to the jury panel, to be known as
27 "alternate jurors". Alternate jurors shall have the same qualifications
28 and be selected and subject to examination and challenge in the same
29 manner and to the same extent as the jurors constituting the regular
30 panel. In any case when the court directs the selection of alternate
31 jurors, each party may peremptorily challenge four jurors. Where the
32 court determines a unity of interest exists, several plaintiffs or several
33 defendants may be considered as a single party for the purpose of
34 making challenges, or the court may allow additional peremptory
35 challenges and permit them to be exercised separately or jointly. For
36 the purposes of this subsection, a "unity of interest" means that the
37 interests of the several plaintiffs or of the several defendants are
38 substantially similar. A unity of interest shall be found to exist among
39 parties who are represented by the same attorney or law firm. In
40 addition, there shall be a presumption that a unity of interest exists
41 among parties where no cross claims or apportionment complaints
42 have been filed against one another. In all civil actions, the total
43 number of peremptory challenges allowed to the plaintiff or plaintiffs
44 shall not exceed twice the number of peremptory challenges allowed to
45 the defendant or defendants, and the total number of peremptory
46 challenges allowed to the defendant or defendants shall not exceed
47 twice the number of peremptory challenges allowed to the plaintiff or
48 plaintiffs.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: See Explanation Below

Affected Agencies: Judicial Department

Municipal Impact: None

Explanation**State Impact:**

The bill could result in savings to the Judicial Department to the extent that less individuals would be summoned for jury duty (over 500,000 jury notices are currently mailed annually). It could also result in a marginal reduction in the length of civil court trials in cases involving a unity of interest among the parties in certain cases.

There are 600-700 civil jury trials handled by the Judicial Department per year involving more than 7,000 jurors. Civil jury trials require the selection of six jurors and two alternates and last an estimated four to five days on average with one day devoted to jury selection. The number of these trials that involve a unity of interest is not known. The bill would not result in any short-term savings but would reduce pressure for the need for additional court resources over the long term.

House "A" eliminated the original bill and the potential increase in the number of jurors summoned and length of court trials.

OLR Amended Bill Analysis

HB 5850 (as amended by House "A")*

AN ACT CONCERNING PEREMPTORY CHALLENGES IN A CIVIL ACTION.**SUMMARY:**

This bill precludes judges presiding over civil jury selections from assigning one side more than twice the total number of peremptory challenges they give the other side. Parties use these challenges to excuse potential jurors without having to give a reason.

Currently, each party (not each side) may peremptorily challenge three potential jurors. When a trial is likely to last a long time, the court may direct that two or more alternate jurors be added to the jury. In such a case, each party may peremptorily challenge four potential jurors.

If several plaintiffs or defendants have substantially similar interests, known as "unity of interest," the court may treat them as a single party and limit them to a total of three peremptory challenges, or four if alternates are also selected. The bill directs judges to find that parties who are represented by the same attorney or law firm have a unity of interest. It also establishes a presumption that there is a unity of interest among parties who have not filed cross claims or reapportionment complaints (i.e., have not claimed that their potential liability should be reduced because of other parties' legal responsibility for an injured person's damages).

By law, judges assigned to unity of interest cases may permit additional peremptory challenges and specify whether they must be exercised individually or jointly. They retain this authority under the bill, but must ensure that they assign neither side more than twice the number of challenges they assign the other.

*House Amendment "A" changes the original bill's peremptory challenge allocations and adds the unity of interest provisions.

EFFECTIVE DATE: October 1, 2001

NUMBER OF PEREMPTORY CHALLENGES

The bill has no effect on the number of challenges in a case where no unity of interest exists among the parties and the number of defendants and plaintiffs is the same. But, for example, in a case with one plaintiff and five defendants, none of whom have a unity of interest, the bill appears to require the court to assign the defendants no more than six peremptory challenges (twice the plaintiff's three challenges). Under current law, each defendant would be entitled to three challenges, for a total of 15. (If alternate jurors were also being selected, under the bill the plaintiff would get four challenges and the defendants, a total of eight.)

The reverse would be true in a case with five plaintiffs suing a single defendant.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 29 Nay 9